

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA

VS.

GARY MICHAEL BEACH

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CRIMINAL NO. 3:16-cr-00472-N

DEFENDANT’S DESIGNATION OF EXPERT WITNESSES

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES GARY MICHAEL BEACH, by and through his counsels of record, and respectfully designates to the Court the following list of expert witnesses:

I.

- 1) Chris J. Dellinges, CPA
1230 Clipston Drive
Prosper, Texas 75078

Mr. Dellinges has been licensed as a Certified Public Accountant in Texas and New Mexico since 1977. He received a BBA degree from College of the Southwest in New Mexico and attended Texas Wesleyan School of Law.

Mr. Dellinges has owned and operated CPA practices in West Texas, Dallas and Plano for over 41 years. He has traveled extensively throughout the United States representing businesses and individuals in complex tax matters and litigation support. He is a recognized expert witness in areas of tax, forensic accounting and business litigation.

Mr. Dellinges has more than 41 years experience in the preparation of Individual, Corporate, Partnership, and Trust tax returns. He has represented clients at the IRS Audit, Collection, Criminal

and Appeals Divisions on complex tax matters. He is regularly asked to give advice and opinion regarding complex tax positions. He served on an advisory committee for the IRS during the development of the computerized audit program. Additionally, in order to become a CPA, Mr. Dellings had to demonstrate his proficiency in both federal taxation of individuals and federal taxation of entities to pass the CPA exam.

Mr. Dellings is engaged by Fortune 500 companies to present forensic accounting analysis on corporations in the United States and internationally including England, Italy, France, Netherlands, German, Spain and Portugal.

Mr. Dellings has served as the Chief Financial Officer for companies and sat on the Board of Directors of public and private organizations. He has negotiated the acquisition and divestiture of companies in the United States and Europe.

Mr. Dellings will testify that he has examined the tax returns for 2011 and 2012 and supporting documents if any for the Gary and Marcy Beach Individual Tax Return, the Beach 2010 Trust, and Beach Capital Partnership. He has also reviewed the work papers of the CPA firm, Van Houten and Associates, that prepared the tax returns.

Additionally, Mr. Dellings will testify that he is familiar with the Treasury Department Regulations Governing Practice for the Internal Revenue Division for the years 2010, 2011, 2012, and 2013. He will further testify regarding general information about the preparation of taxes and returns.

Additionally, Mr. Dellings will testify about the withdrawals, checks, and additions for the bank accounts for Gary Beach, Beach Petroleum, Beach Capital Partnership, and the Beach 2010 Trust. He will testify as to the analysis of funds in and out of those entities.

Mr. Dellinges will testify that he has reviewed the tax returns for Gary and Marcy Beach for 2011 and 2012; the Beach 2010 Trust for 2011 and 2012, Beach Petroleum for 2012; Beach Capital Partnership for 2011 and 2012. He will explain the entries for income and deductions and the effect of the entries on the tax returns and tax payable. He will further explain what a trust is and what trust distributions are. Mr. Dellinges testify that in his opinion the payments from Black Horse Resources to Gary Beach in 2011 were trust distributions. He will further testify that in his opinion any payments out of Beach Petroleum in 2011 either to Gary Beach or for his behalf are trust distributions. He will testify what a K-1 is in relation to a trust return. He will testify that based on the K-1 of the Beach 2010 Trust, in his opinion, any payments to Gary Beach were a return of corpus.

2) Behrooz Vida, Attorney at Law
3000 Central Drive
Bedford, Texas 76021

Mr. Vida has been licensed as an Attorney in Texas since 1990. He received his undergraduate degree from the University of Texas at Austin and law degree from Texas Tech University.

Mr. Vida has practiced law in Tarrant County, Texas for over 27 years. He has represented businesses and individuals in complex bankruptcy matters. He is a recognized expert in areas of bankruptcy. He is board certified in both consumer and business bankruptcy. Mr. Vida has had the following speaking engagements:

- Speaker/Author, *Frost and its Effects*, The University of Texas 13th Annual Consumer Bankruptcy Practice, 2017.
- Speaker/Author, *Individual Chapter 11s*, 12th Anniversary Texas Bench/Bar Bankruptcy Conference, 2017.

- Speaker, *Pre-Petition Due Diligence: Schedules Preparation, Ethics of Pre-Planning and When to Withdraw*, 31st Annual Advanced Consumer Bankruptcy Course, 2016.
- Speaker/Author, *Recent Case Law Updates: Part A – Consumer Cases*, Bench Bar Conference Northern District of Texas, 2016.
- Speaker/Author, *What in the World Have They Done to the Texas Homestead Exemption?* The University of Texas 12th Annual Consumer Bankruptcy Practice, 2016.
- Speaker/Author, *There's No Place Like Home*, DFW Area Chapter 13 Seminars, 2015.
- Speaker/Author, *Adversary Proceedings, Nuts and Bolts, Procedures and Pleadings*, 30th Annual Advanced Consumer Bankruptcy Course, 2015.
- Speaker/Author, *Risk Management in Law Offices Handling Bankruptcy Matters*, 10th Anniversary Texas Bench/Bar Bankruptcy Conference, 2015.
- Speaker/Author, *Tips for Effective Adversary Proceedings*, The University of Texas 10th Annual Consumer Bankruptcy Practice, 2014.
- Speaker/Author, *Adversary Proceeding Nuts and Bolts from Filing through Appeal*, The University of Texas 9th Annual Consumer Bankruptcy Practice, 2013.
- Speaker/Author, *Student Loan Issues in Bankruptcy*, The University of Texas 8th Annual Consumer Bankruptcy Practice, 2012.
- Speaker/Author, *How to Counsel Your Debtor to Reduce Their Lifestyle: Practical Suggestions and Financing Alternatives to Maximize Plan Success*, The University of Texas 7th Annual Consumer Bankruptcy Practice, 2011.
- Speaker/Author, *Bankruptcy Rule 9011, a rule every bankruptcy lawyer should know about and not be its target*, The University of Texas 6th Annual Consumer Bankruptcy Practice, 2010.

- Speaker, *Mortgage Modification and Bankruptcy*, Tarrant County Bankruptcy Bar, 2009.
- Speaker/Author, *The Burden of Proof and Proof of Claim*, The University of Texas 4th Annual Consumer Bankruptcy Course, 2008.
- Speaker, *Recent Caselaw*, Tarrant County Bankruptcy Bar, 2008.
- Speaker/Author, *Bankruptcy Appeal*, The University of Texas 3rd Annual Consumer Bankruptcy Practice, 2007.
- Speaker, *Handling Consumer Chapter 13 Cases Under BAPCPA*, Northern District of Texas Bench/Bar Seminar 2006.
- Speaker/Author, *Cars—Let Them Eat Steel*, The University of Texas 2d Annual Consumer Bankruptcy Practice, 2006.
- Speaker/Author, *Chapter 13 Practice Under the New Code*, Understanding the Bankruptcy Reform Act of 2005 in Texas, Lorman Education Service, 2006.
- Speaker, *BAPCPA 2005*, Tarrant County Bankruptcy Bar, 2005.
- Speaker, *Exemptions: What May You Keep While Serving Your Time in Debtors' Prison?* The University of Texas Consumer Bankruptcy Practice, 2005.
- Author/Speaker, *How to Organize and Manage Your Consumer Bankruptcy Practice*, The Law Office Management Program, State Bar of Texas, 2004.
- Speaker, *Selected Consumer Issues*, 22nd Annual University of Texas Bankruptcy Conference, 2003.
- Author/Speaker, *IRS Issues, Treatment of Student Loans, Budget Issues, and Post-Petition Sale of Homes in Chapter 13 Cases*, 13th Annual Chapter 13 Consumer Bankruptcy Conference, 2003.

Mr. Vida will testify that he has examined the bankruptcy filings and any supporting documents if any, which are the basis of the substantive counts against the Defendant, Gary Beach. Further based upon his review of the documents produced in discovery, in his opinion, there were mistakes and errors made by Richard Dafoe in the preparation of Gary Beach's bankruptcy filings. These errors include designating the filer as separated.

Mr. Vida will testify as to what, in his opinion constitutes income under the bankruptcy laws and what assets, in his opinion, are required to be listed on the bankruptcy filings. Mr. Vida will explain the means test and implications in a chapter 7 bankruptcy. Mr. Vida will state that he has the opinion that the debt sought to be discharged by Gary Beach, specifically the judgement, is a non consumer debt and therefore, there was no incentive for the debtor, Gary Beach, to make a false statement about his income. Mr. Vida will testify in his opinion the amount of income claimed by the debtor, Gary Beach, is not material since it had no impact on whether the debtor would be eligible to file a Chapter 7 bankruptcy. In his opinion the amount of income claimed or not claimed did not affect Gary Beach's eligibility to file Chapter 7.

Mr. Vida will also testify as to customary practices in law firms specializing in bankruptcy law.

Mr. Vida will testify as to the propriety of the homestead exemption filed by Mr. Beach as beneficiary of the Beach 2010 Trust. Mr. Vida will testify in his opinion it is a proper filing. Further Mr. Vida will testify that in his opinion the Beach 2010 Trust is a spendthrift trust and that in his opinion the assets of spendthrift trust are not part of an individual's bankruptcy estate. Mr. Vida will further testify that Beach Petroleum LLC, as an asset belonging to the Beach 2010 Trust, is not part of the bankruptcy estate. In his opinion, Beach Petroleum, LLC did not need to be disclosed on the bankruptcy filing.

- 3) Richard Dafoe
1601 Elm Street
Dallas, Texas 75201

The Defense cross-designates Richard Dafoe as an expert. Mr. Dafoe is a board certified bankruptcy lawyer with forty (40) years of experience. He has testified before the Grand Jury on at least three different occasions. This cross-designation is made since Defendant may ask him questions that are not covered in direct examination by the Government. Mr. Dafoe is also a fact witness in addition to a Government expert and has been subpoenaed by the Defendant.

Respectfully submitted,

/s/ MARTIN LENOIR

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of February, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Mr. David L Jarvis
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/s/ MARTIN LENOIR
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